

STATE OF NEBRASKA  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
STATE BUILDING DIVISION  
SUBLEASE

This Sublease Agreement, executed in duplicate is by and between **Lincoln Children's Museum**, hereinafter known as "Sublessor", and the Department of Administrative Services, State Building Division, an agency of the State of Nebraska, hereinafter known as "Sublessee", acting on behalf of **Nebraska State Historical Society**, hereinafter known as "Tenant Agency".

This Sublease constitutes the entire agreement between Sublessor and Sublessee regarding the subject matter hereof and supersedes all oral statements and prior writings relating thereto. Except for those set forth in this Sublease, no representations, warranties or agreements have been made by Sublessor or Sublessee to the other with respect to this Sublease or the obligations of Sublessor or Sublessee in connection therewith. The normal rule of construction that any ambiguities be resolved against the drafting party shall not apply to the interpretation of this Sublease or any exhibits or amendments hereto.

**1. Premises.** Sublessor hereby subleases, subject to the terms, covenants and conditions set forth in this Sublease Agreement, to the Sublessee, the premises as generally described below (hereinafter "Demised Premises"), which consists of 26,433 square feet of leaseable area (not including any Common Area). Sublessor warrants that they are authorized to sublease the Demised Premises. The Demised Premises are being subleased for the sole purpose of general office and storage space. The Demised Premises are generally described as follows:

**Lincoln Children's Museum  
1420 "P" Street, 3<sup>rd</sup> Floor and Basement  
Lincoln, Nebraska 68508**

- 1.1 Common Areas – Definition.** "Common Areas" are all areas and facilities outside the Demised Premises and within the exterior boundary line of the building and grounds and interior utility raceways within the Demised Premises that are provided and designated by the Sublessor from time to time for the general non-exclusive use of Sublessor, Sublessee/Tenant Agency and their respective employees, suppliers, shippers, contractors and invitees.
- 1.2 Common Areas – Sublessee/Tenant Agency's Rights.** Sublessor hereby grants to Sublessee, for the benefit of Tenant Agency and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Sublease Agreement, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Landlord under the terms hereof.

**2. Term.**

- 2.1** The term of this Sublease Agreement shall be for a period of 3 years, commencing on **January 1, 2008** (hereinafter the "Commencement Date") and ending on **December 31, 2010** (hereinafter the "Expiration Date") unless sooner terminated as hereinafter provided. This Sublease shall in no case become effective until all required signatures have been obtained.
- 2.2** It is agreed between the Sublessor and the Sublessee that in the event the Sublessor, Sublessee and Tenant Agency have fully complied with all the terms and conditions of this Sublease, the Sublessee prior to the expiration of the original term of this Sublease shall have the right exercisable at its sole option to

renew the Sublease upon the same terms and conditions as those set forth in this Sublease, provided Sublessee notifies Sublessor in writing of its exercise of such right within 45 calendar days before the end of the term of this Sublease. If any of the terms or conditions of this Sublease are to be changed for such extension of the Sublease, said changes must be mutually agreed to in writing between all parties.

### 3. Rent.

- 3.1 Sublessee shall pay Sublessor rent in equal monthly installments payable in advance on the first day of each month throughout the term of this Sublease. Rent payable hereunder for any period of time less than one month shall be determined by prorating the monthly rent herein specified based on the actual number of days in the month. Rent shall be paid to the Sublessor at the address specified in Paragraph 5 or to such other address as the Sublessor designates in writing and served as notice to Sublessee.
- 3.2 Tenant Agency will occupy **13,322** square feet of office space and **13,111** square feet of storage space. The actual rentable area of the Demised Premises shall be determined in accordance with the Standard Method for Measuring "Floor Area in Office Buildings, Approved June 7, 1996 ("BOMA Standards") by the American National Standards Institute, Inc. (ANSI/BOMA 265.1-1996). The payment schedule for the term of this Sublease shall be as follows:

	<u>Square Feet</u>	<u>Cost per ft<sup>2</sup></u>	<u>Total Annual Rent</u>	<u>Monthly Rent</u>
Office Space	13,322	\$6.785	\$90,389.77	\$7,532.48
Storage Space	13,111	\$2.78	\$36,448.58	\$3,037.38

### 4. Termination and Default.

- 4.1 This Sublease Agreement may be terminated by Sublessee by written notice to Sublessor if sufficient appropriated funds are not available to Sublessee and/or Tenant Agency for the purpose of paying necessary operating expenses of the Tenant Agency, including rent on the Demised Premises. If any Governor's budget message is such that it does not include sufficient appropriated funds to pay necessary operating expenses of the Tenant Agency, including rent hereunder, notice of such fact shall be given promptly to Sublessor, and if at any time it appears that appropriated funds will be depleted in the future, or such funds are not sufficient to pay necessary operating expenses of Tenant Agency including rent hereunder, notice of such fact and the estimated date of depletion shall be given promptly to Sublessor. If only a portion of the funds sufficient to pay the necessary operating expenses of the Tenant Agency including rent hereunder are appropriated, this Sublease may be kept in force with a prorated share of the space and corresponding rent decreased. Any such reduction shall be agreed upon by Sublessor, Sublessee and Tenant Agency.
- 4.2 Sublessor and Sublessee each shall have the right to cancel this Sublease, for any reason whatsoever including no reason, upon giving **one hundred twenty (120) days** notice of such cancellation in writing to the other party.
- 4.3 Sublessee may terminate this Sublease immediately for the following reasons: (a) if directed to do so by statute; (b) if Sublessor has made an assignment for the benefit of creditors, has admitted in writing its inability to pay debts as they mature, or has ceased operating in the normal course of business; (c) if a trustee or receiver of Sublessor or of any substantial part of Sublessor's assets has been appointed by any court; (d) in the case of fraud, misappropriation embezzlement, malfeasance, misfeasance, or illegal conduct by Sublessor, its employees, officers, directors, or shareholders; (e) if an involuntary proceeding has been

commenced by any party against Sublessor under any one of the chapters of Title 11 of the United States Code and (i) the proceeding has been pending for at least sixty (60) days; or (ii) Sublessor has consented, either expressly or by operation of law, to the entry of an order for relief; or (iii) Sublessor has been decreed or adjudged a debtor; (f) A voluntary petition has been filed by Sublessor under any of the chapters of Title 11 of the United States Code.

- 4.4 Sublessor may terminate this Sublease immediately in the case of fraud, misappropriation embezzlement, malfeasance, misfeasance, or illegal conduct by Sublessee and/or Tenant Agency or its employees.
- 4.5 Sublessee may terminate this Sublease, in whole or in part, if Sublessor fails to perform its obligations under this Sublease Agreement in a timely and proper manner. Sublessee may, by providing a written notice of default to Sublessor, allow Sublessor to cure a failure or breach of this Sublease within a period of thirty (30) days. Allowing Sublessor time to cure a failure or breach of contract does not waive Sublessee's right to immediately terminate this Sublease for the same or different contract breach which may occur at a different time.
- 4.6 If the whole or substantial part of the building or Demised Premises shall be taken or condemned by any competent authority for any public use or purpose, unless otherwise agreed upon in writing by the parties, the terms of this Sublease shall end upon and not before the date when possession of the part so taken shall be required for such use or purchase, and without apportionment of the award, and current rent shall be apportioned to the date of termination.
- 4.7 In the event Tenant Agency and/or Sublessee fails to pay any rent due herein or fails to keep and perform any of the other terms or conditions hereof, Sublessor may serve written notice of default upon Sublessee. Upon such receipt, Sublessee and/or Tenant Agency shall have thirty (30) days to cure the default so noted in the notice of default. If, after said cure period the default has not been cured, the Sublessor may resort to any and all legal remedies or combination of remedies which Sublessor may desire to assert, including but not limited to one or more of the following: (1) Declare the Sublease terminated; (2) file a claim for the rent due under the Sublease and/or for any damages sustained by Sublessor; (3) continue the Sublease in effect and relet the Demised Premises on such terms and conditions as Sublessor may deem advisable with Sublessee and/or Tenant Agency remaining liable for the monthly rent until the Demised Premises is relet. Allowing Sublessee time to cure a failure or breach of contract does not waive Sublessor's right to immediately terminate this Sublease for the same or different contract breach which may occur at a different time.
- 4.8 No action by Sublessor shall be construed as an election to terminate the Sublease unless written notice of such intention is given to Sublessee.
- 4.9 In the event Sublessor fails or refuses to comply with any requirements of the Sublease within thirty (30) days of the event giving rise to the requirement or in the event of an emergency constituting a hazard to the health or safety of the Sublessee's and/or Tenant Agency's employees, property, or invitees, the Sublessee and/or Tenant Agency may perform such maintenance or make such repair at its own cost and, in addition to any other remedy the Sublessee and/or Tenant Agency may have, may deduct the amount thereof from the rent that may then be or thereafter become due hereunder.

**5. Notices.** All notices herein provided to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when made in writing and either hand delivered or deposited in the United States mail, postage prepaid, and addressed as follows:

To the Sublessor at: Lincoln Children's Museum  
1420 P Street  
Lincoln, Nebraska 68508

To the Sublessee at: DAS/State Building Division  
Attn: 65070154  
P.O. Box 98940  
521 So. 14<sup>th</sup> St., Ste 500  
Lincoln, NE 68509-8940

## 6. Assignment and Subletting.

- 6.1 Sublessee shall not assign this Sublease without the written consent of the Sublessor, which shall not be unreasonably withheld. Any occupant, assignee, or Sublessee must agree to abide by all of the terms and provisions of this Sublease. Sublessor shall not assign this Sublease without the written consent of Sublessee, which shall not be unreasonably withheld.
- 6.2 Notwithstanding the provisions of Section 6.1, Sublessee may assign or sublet the Demised Premises, or any portion thereof, to any agency, board or commission of the State of Nebraska provided that said assignee assumes, in full the obligations of Sublessee under this Sublease.

**7. Inspection.** Sublessee and/or Tenant Agency agree to permit Sublessor and/or its authorized representative to enter the Demised Premises during usual business hours for the purposes of inspecting the same. Sublessee and/or Tenant Agency agree that Sublessor may enter the Demised Premises at any reasonable time for the purpose of making necessary repairs for which Sublessor is responsible or such repairs that are demonstrably necessary for the safety and preservation of the Demised Premises.

**8. Fixtures and Personal Property.** Any trade fixtures, equipment or personal property installed in or attached to the Demised Premises by or at the expense of the Sublessee and/or Tenant Agency, shall be and remain the property of the Sublessee and/or Tenant Agency and Sublessor agrees that Sublessee and/or Tenant Agency shall have the right to remove any or all of its personal property, trade fixtures and equipment. Equipment and other personal property which may have been stored or installed by or at the expense of Sublessor shall be and remain the property of Sublessor. Tenant Agency agrees that it will, at its expense, repair any damage occasioned to the Demised Premises by reason of the removal of its trade fixtures, equipment and other personal property.

**9. Alterations.** Sublessee and Tenant Agency will not permit any alterations or additions to any part of the Demised Premises, except by written consent of Sublessor, which consent shall not be unreasonably withheld. All alterations to the Demised Premises shall remain for the benefit of Sublessor unless otherwise provided in said consent. Notwithstanding the foregoing, Tenant Agency may, without consent of Sublessor, make additions, alterations, repairs or décor changes to the Demised Premises of a non-structural nature, provided that upon completion of such alterations and additions, the fair market value of the Demised Premises and rental value thereof will not be less than the fair market value and rental value of the Demised Premises immediately prior to such alterations and additions. Said fair market value and rental value shall be determined by a licensed real estate appraiser, in good standing in the State of Nebraska, mutually agreed to by Sublessee and Sublessor.

**10. Return of Premises.** At the conclusion of this Sublease or any extension thereof, Sublessee shall return the Demised Premises to Sublessor in the same condition as it was received at origination of this Sublease, normal wear and tear or alterations permitted as per Section 9, above, excepted. If at the conclusion of this Sublease or any extension thereof, Sublessor is of the opinion that Tenant Agency is not leaving the Demised Premises in the same

condition as it was received, normal wear and tear excepted, then such costs of restoration will be mutually agreed upon between the parties. If the costs cannot be agreed upon, the costs will be determined by a panel of three (3) persons consisting of Sublessee, Sublessor, and one (1) person selected by mutual consent of the parties.

#### **11. Destruction of Premises.**

- 11.1 If a portion of the Demised Premises or the building is damaged by fire, unavoidable casualty, Act of God, or some other event that renders the Demised Premises unfit ("Event") such that Sublessee is prevented from conducting its business in the premises in a manner reasonably comparable to that conducted immediately before such Event, then Sublessee may terminate this Sublease by delivering written notice to Landlord of its election to terminate immediately within thirty (30) days after the Event. The portion of any advance Sublease payment which is attributed to the period of time after the Sublease has been terminated in the above manner shall be refunded by Sublessor to Sublessee. If Sublessee does not so timely terminate this Sublease, then Sublessor shall repair the building or the Demised Premises, as the case may be, as provided below, and Rent for the portion of the Premises rendered unusable for Tenant Agency's purposes by the damage or repair shall be abated on a reasonable basis from the date of damage until the completion of the repair, unless Tenant Agency caused such damage, in which case, Tenant Agency shall continue to pay Rent without abatement.
- 11.2 Sublessor shall, within fifteen (15) days after such Event, deliver to Sublessee a good faith estimate of the time needed to repair the damage caused by such Event. Sublessor shall be responsible for repairing the same in a timely manner at Sublessor's own expense and the rental payments shall be suspended from the time of the Event until the Demised Premises have been put in substantially the same condition as they existed immediately before such Event.

#### **12. Repair and Maintenance.**

- 12.1 During this Sublease term, Sublessor shall maintain the premises including, but not limited to, general landscaping, sidewalks, building entrances and parking areas, the roof, exterior walls, exterior doors, exterior windows and corridors of the building, and the building equipment in good repair and tenantable condition.
- 12.2 Sublessee's obligations include the maintenance and repair of the interior portion of the Demised Premises, including but not limited to doors, lights, light bulbs and all fixtures and equipment therein.

#### **13. Services and Utilities.**

- 13.1 Tenant Agency is responsible for cost of electricity and gas used in the Demised Premises. The Tenant Agency's gas payment shall be based on a third (1/3) of the gas meter. Sublessor will mail to the Sublessee invoice for such utility. Said invoice will show the total monthly cost and provide a separate figure for which the Tenant Agency is responsible. Sublessee agrees to remit payment to the utility provider within ten (10) working days of receipt of invoice. The utility provider for electricity will mail the Sublessee's invoice directly. The percentage for which the cost of electricity and gas are attributed is based on the square feet allocated to the Tenant Agency, which is as illustrated in Exhibit A (attached hereto and incorporated into this Lease). In the event of any outage of utility services to the Demised Premises, Sublessor shall use its best efforts to restore said utility services promptly.

- 13.2 Janitorial Services/Supplies: Sublessee shall be responsible for all janitorial services and/or supplies for the Demised Premises.
- 13.3 Parking (number of stalls): Sublessor to provide two (2) parking stalls in adjacent lot of associated building at no cost to Sublessee or Tenant Agency.
- 13.4 Sublessor will provide trash removal, snow/ice removal from, parking lots, building entrances, exits and surrounding sidewalks, lawn care, and interior and exterior pest control at no cost to Sublessee or Tenant Agency.
- 13.5 Tenant Agency agrees to pay the monthly charges to provide telephone and/or computer networking services supplied to the Demised Premises. It is the responsibility of Sublessor to ensure adequate entrance facilities are provide by the local communications company for the services required. Tenant Agency shall provide communication cabling to each desk and/or work station. Each desk and/or work station shall have a telephone and computer network jack provided. Each telephone and computer jack shall be terminated on separate cables, which shall be terminated to separate connecting blocks/patch panels at a common central location. All voice/data cabling will originate from a central communications closet to all requested locations/work stations/offices. Each voice and data faceplate and closet termination point shall be labeled.
- 13.6 Communications installation methods and procedures shall meet the ANSI/TIA/EIA-568-B wiring standards and those set by the Nebraska Office of the Chief Information Officer and shall be performed by qualified personnel in the telecommunications field.

**14. Holding Over.** In the event Sublessee remains in possession of the Demised Premises after the expiration of the Sublease term or any extension thereof, this Sublease shall be automatically extended on a month-to-month basis, subject to termination by either party by providing thirty (30) days written notice of termination to the other party, and otherwise on the terms and conditions herein specified. The rent payable during any holdover period shall be the same as the monthly rent payable in the last month prior to expiration unless another amount is mutually agreed upon in writing by, Sublessee and Sublessor.

**15. Compliance With Law.**

- 15.1 Sublessor shall, at its expense, comply with all applicable statutes, charters, laws, ordinances, building and maintenance codes, rules, regulations, requirements and orders of duly constituted public authorities now or hereafter in any manner affecting the Demised Premises, or the use thereof, or the sidewalks, alleys, streets, and ways adjacent thereto, whether or not any such statutes, charters, laws, ordinances, rules, regulations, requirements, or orders which may be hereinafter enacted involve a change of policy on the part of the governmental body enacting the same.
- 15.2 The Demised Premises shall meet all current applicable code requirements, including but not limited to fire/life safety codes and the Americans with Disabilities Act Accessibility Guidelines.

**16. Liabilities – Limited or Negligent Acts.** Sublessee and/or Tenant Agency shall not be responsible for any liabilities resulting from negligent acts or omissions of the Sublessor, its agents, invitees or employees, and Sublessor will hold the Sublessee and/or Tenant Agency harmless from any damages or injuries caused by the Sublessor, its agents, invitees or employees. Sublessor shall not be responsible for any liabilities resulting from the negligent acts or omissions of Sublessee and/or Tenant Agency, its agents, employees or invitees.

**17. Compliance with Civil Rights Laws and Equal Opportunity Employment.**

Sublessor shall comply with all applicable local, State and Federal statutes and regulations regarding civil rights and equal opportunity employment. Neither Sublessor nor any subcontractors shall discriminate against any employee or applicant for employment, to be employed in the performance of this Sublease, with respect to the employee or applicant's hire, tenure, terms, conditions or privileges of employment, because of his or her race, color, religion, sex, disability or national origin.

**18. Drug Free Workplace.** Sublessor certifies that it maintains a drug free workplace environment to ensure worker safety and workplace integrity. Sublessor agrees to provide a copy of its drug free workplace policy at any time upon request by Sublessee.

**19. Amendments and Binding Effect.** This Sublease may not be amended except by instrument in writing signed by Sublessor, Sublessee and the Tenant Agency. No provision of this Sublease shall be deemed to have been waived by either party unless such waiver is in writing signed by the applicable party and no custom or practice which may evolve between the parties in the administration in the terms hereof shall waive or diminish the right of either party to insist on the performance of the other party in strict accordance with the terms hereof.

**20. Severability.** If any clause or provision of this Sublease is illegal, invalid, or unenforceable under present or future laws, then the remainder of this Sublease shall not be affected thereby and in lieu of such clause or provision, there shall be added as a part of this Sublease a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and unenforceable.

**SUBLESSEE:**

\_\_\_\_\_  
Director  
Department of Administrative Services

\_\_\_\_\_  
Date

\_\_\_\_\_  
Administrator  
State Building Division

\_\_\_\_\_  
Date

**SUBLESSOR:**

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Date

**Federal I.D. Number:** \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned Notary Public in and for said County and State, personally appeared \_\_\_\_\_, of \_\_\_\_\_, known to be the identical person herein named and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her voluntary deed and act.

\_\_\_\_\_  
Notary Public